

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

SolarCity Corporation,
Plaintiff,
v.
Salt River Project Agricultural
Improvement and Power District, et al.,
Defendant.

No. CV-15-00374-PHX-DLR

SCHEDULING ORDER

On November 24, 2015, a Scheduling Conference was held pursuant to Rule 16(b) of the Federal Rules of Civil Procedure. The parties met before the conference in accordance with Rule 26(f) and prepared a Discovery Plan. On the basis of the Scheduling Conference and the Discovery Plan,

IT IS HEREBY ORDERED:

1. Deadline for Initial Disclosures. Initial disclosures required by Federal Rule of Civil Procedure 26(a) have already been exchanged by the parties.

2. Deadline for Joining Parties, and Amending Pleadings. The deadline for joining parties and amending pleadings is shall be January 15, 2016.

3. Discovery Limitations. Depositions in this case shall be limited to seven hours each as provided in Rule 30(d)(1) of the Federal Rules of Civil Procedure. The number of depositions and interrogatories shall be as limited in Rules 30(a), 31(a), and 33(a)(1) of the Federal Rules of Civil Procedure. Each side also may propound up to 40 requests for production of documents, including subparts, and up to 40 requests for

1 admissions, including subparts. The limitations set forth in this paragraph may be
2 increased by mutual agreement of the parties, but such an increase will not result in an
3 extension of the discovery deadlines set forth below.

4 4. Deadline for Completion of Fact Discovery. The deadline for completing
5 fact discovery, including all disclosure required under Rule 26(a)(3), shall be May 15,
6 2016. To ensure compliance with this deadline, the following rules shall apply:

7 a. Depositions: All depositions shall be scheduled to commence at least
8 five working days prior to the discovery deadline. A deposition commenced five days
9 prior to the deadline may continue up until the deadline, as necessary.

10 b. Written Discovery: All interrogatories, requests for production of
11 documents, and requests for admissions shall be served at least 45 days before the
12 discovery deadline.

13 c. Notwithstanding LRCiv 7.3, the parties may mutually agree in
14 writing, without court approval, to extend the time provided for discovery responses in
15 Rules 33, 34, and 36 of the Federal Rules of Civil Procedure. Such agreed-upon
16 extensions, however, shall not alter or extend the discovery deadlines set forth in this
17 order.

18 d. Special Provisions Regarding Rule 34 Responses: Objections to
19 Rule 34 document production requests shall be stated with specificity; general or
20 boilerplate objections are not permitted. Document production in response to a Rule 34
21 request must be completed no later than the time specified in the request or another
22 reasonable time specified in the response. An objection to a Rule 34 request must state
23 whether any responsive materials have been withheld on the basis of that objection.

24 5. Deadlines for Disclosure of Experts and Completion of Expert Discovery.

25 a. The Plaintiff(s) shall provide full and complete expert disclosures as
26 required by Rule 26(a)(2)(A)-(C) of the Federal Rules of Civil Procedure no later than
27 June 1, 2016.

1 b. The Defendant(s) shall provide full and complete expert disclosures
2 as required by Rule26(a)(2)(A)-(C) of the Federal Rules of Civil Procedure no later than
3 July 1, 2016.

4 c. Rebuttal expert disclosures, if any, shall be made no later than July
5 15, 2016. Rebuttal experts shall be limited to responding to opinions stated by initial
6 experts.

7 d. Expert depositions shall be completed no later than August 15, 2016.
8 As with fact witness depositions, expert depositions shall be scheduled to commence at
9 least five working days before the deadline.

10 e. No expert witness not timely disclosed will be permitted to testify
11 unless the party offering such witness demonstrates: (a) that the necessity of such expert
12 witness could not have been reasonably anticipated at the time of the deadline for
13 disclosing such expert witness; (b) the opposing counsel or unrepresented party were
14 promptly notified upon discovery of such expert witness; and (c) that such expert witness
15 was promptly proffered for deposition. *See Wong v. Regents of the Univ. of Cal.*, 410
16 F.3d 1052, 1060 (9th Cir. 2005).

17 6. Discovery Disputes.

18 a. The parties shall not file written discovery motions without leave of
19 court. If a discovery dispute arises and cannot be resolved despite sincere efforts to
20 resolve the matter through personal consultation, the parties shall call the Court's Judicial
21 Assistant, Mary Farmer, at (602)322-7530, to set a telephonic conference.

22 b. If a discovery dispute arises in the course of a deposition and
23 requires an immediate ruling of the Court, the parties shall jointly telephone the Court to
24 request a telephone conference regarding the dispute.

25 c. Absent extraordinary circumstances, the court will not entertain fact
26 discovery disputes after the deadline for completion of fact discovery and will not
27 entertain expert discovery disputes after the deadline for completion of expert discovery.

1 Delay in presenting discovery disputes for resolution is not a basis for extending
2 discovery deadlines.

3 7. Deadline for Filing Dispositive Motions.

4 a. Dispositive motions and motions challenging expert opinion
5 testimony shall be filed no later than September 1, 2016, at 5:00 p.m. Arizona time. Such
6 motions must comply in all respects with the Federal Rules of Civil Procedure and the
7 Local Rules.

8 b. No party or parties represented by the same counsel shall file more
9 than one motion for summary judgment under Rule 56 of the Federal Rules of Civil
10 Procedure unless by leave of the Court.

11 c. Statements of fact required by Local Rule of Civil Procedure 56.1
12 shall not exceed ten pages in length, exclusive of exhibits.

13 d. Failure to respond to a motion within the time periods provided in
14 LRCiv 7.2 will be deemed a consent to the denial or granting of the motion and the Court
15 may dispose of the motion summarily pursuant to LRCiv 7.2(i).

16 e. A party desiring oral argument shall place the words "Oral
17 Argument Requested" immediately below the title of the motion pursuant to LRCiv
18 7.2(f). The court will issue a minute entry order scheduling oral argument as it deems
19 appropriate.

20 8. Deadline for Engaging in Good Faith Settlement Talks. All parties and
21 their counsel shall meet in person and engage in good faith settlement talks no later than
22 September 15, 2016. Upon completion of such settlement talks, and in no event later
23 than five working days after the deadline set forth in the preceding sentence, the parties
24 shall file with the court a joint Report on Settlement Talks executed by or on behalf of all
25 counsel. The report shall inform the Court that good faith settlement talks have been held
26 and shall report on the outcome of such talks. The parties shall promptly notify the Court
27 at any time when settlement is reached during the course of this litigation.

1 The Court will set a settlement conference before a magistrate judge upon request
2 of all parties.

3 The parties are encouraged to discuss settlement at all times during the pendency
4 of the litigation. The Court will not, however, extend the case processing deadlines
5 because the parties wish to avoid litigation expense if and when they elect to pursue
6 settlement efforts, including a settlement conference before a magistrate judge. The
7 parties should plan their settlement efforts accordingly.

8 9. The Deadlines Are Real. The parties are advised that the Court intends to
9 enforce the deadlines set forth in this order, and they should plan their litigation activities
10 accordingly. The Court will not extend the case processing deadlines because the parties
11 wish to avoid litigation expense if and when they elect to pursue settlement efforts,
12 including a settlement conference before a magistrate judge.

13 10. Briefing Requirements.

14 a. All memoranda filed with the Court shall comply with Local Rule of
15 Civil Procedure 7.1(b) requiring 13 point font in text and footnotes.

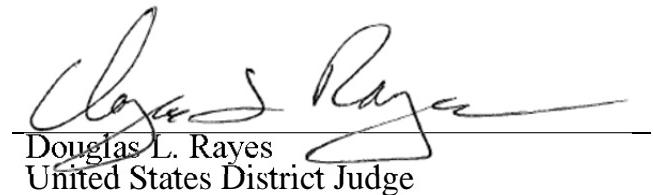
16 b. Citations in support of any assertion in the text shall be included in
17 the text, not in footnotes.

18 11. Dismissal for Failure to Meet Deadlines of This Order or of the Rules.
19 The parties are warned that failure to meet any of the deadlines in this order or in the
20 Federal Rules of Civil Procedure without substantial justification may result in sanctions,
21 **including dismissal of the action or entry of default.**

22 12. Requirement for Paper Courtesy Copies. Pursuant to Section II.D.3 of the
23 Electronic Case Filing Administrative Policies and Procedures Manual, a paper courtesy
24 copy of dispositive motions and responses and replies thereto and any document
25 exceeding 10 pages in length shall be either post-marked and mailed directly to the judge
26 or hand-delivered to the judge's mail box located in the courthouse the next business day
27 after the electronic filing. A copy of the face page of the Notice of Electronic Filing shall
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1 be appended to the last page of the courtesy copy. Courtesy copies of documents too
2 large for stapling must be bound with a metal prong fastener at the top center of the
3 document or submitted in three-ring binders. If courtesy copies are not delivered within
4 three days of the file date, the court may strike the pleading summarily for failure to
5 follow court rules and this order.

6 Dated this 24th day of November, 2015.
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11 Douglas L. Rayes
12 United States District Judge
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